

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOHN DALE PREACHER,	)	
	)	
Plaintiff	)	Case No. 2:19-cv-1207
	)	
vs.	)	CATHY BISSOON
	)	UNITED STATES DISTRICT JUDGE
	)	
	)	RICHARD A. LANZILLO
CORRECT CARE SERVICES et al.,	)	UNITED STATES MAGISTRATE JUDGE
	)	
Defendants	)	
	)	ORDER ON MOTIONS PENDING AT
	)	ECF NOS. 131, 135, 140, 165, 166
	)	

The undersigned conducted a telephone status conference in this case on September 25, 2020. The Plaintiff John Dale Preacher (Preacher) participated as did Benjamin M. Lombard, Esq., Samuel H. Foreman, Esq., Justin A. Gayle, Dept. Atty. Gen., and Aaron S. Jayman, Esq., counsel for the various Defendants. The purpose of this Order is to memorialize several rulings and instructions issued during that status conference.

1. Preacher's Motion to Compel Discovery (ECF No, 140) is **DENIED**, without prejudice. Preacher may file a renewed Motion to Compel on or before Monday, October 26, 2020, in which he specifically identifies each interrogatory, request for production of documents, or request for admission in response to which he believes a defendant has improperly objected or otherwise failed to provide an adequate response. The Court further directs that as part of any renewed Motion to Compel, Preacher should include as exhibits the discovery request(s) at issue and the Defendant's objection(s) or insufficient response(s).

2. Preachers Motion to File a Ninth Set of Interrogatories/Requests for Production (ECF No. 166) is **DENIED**. The Court has reviewed Preacher's request in the totality of the written discovery he has conducted to date and finds that the proposed requests are largely

duplicative of prior discovery and seek primarily irrelevant information. The Court also finds that given the overall volume of discovery he already has served upon the Defendants, Preacher's proposed ninth request is substantially disproportionate to the needs of this case.

3. As stated on the record during the status conference, Preacher has agreed to voluntarily dismiss his sole claim against Defendant Santos. Counsel for Santos is directed to draft and sign a stipulation of voluntary dismissal of Santos pursuant to Federal Rule of Civil Procedure 41(a)(2) and forward the stipulation to Preacher for his signature. Preacher shall then send the fully executed stipulation to the Clerk of this Court for filing. Given Preacher's agreement to voluntarily dismiss Santos as a defendant, Santos' Motion to Strike Plaintiff's June 26, 2020 Notice to the Court (ECF No 135) is **DENIED** as moot. Upon the filing of the stipulation of dismissal, the undersigned will file a Report and Recommendation recommending that the Court deny Defendant Santos' pending Motion to Dismiss (ECF No. 121) as moot.

4. Defendant Kross has filed a Motion to Strike Preacher's response (ECF No. 131) in opposition to his pending motion to dismiss which concerns the adequacy of Preacher's Certificate of Merit. See Pennsylvania Rule of Civil Procedure 1042.7. The motion is **DENIED**. The undersigned will scrutinize the adequacy and timeliness of the Certificate of Merit in connection with his Report and Recommendation on the pending motions to dismiss.

5. At ECF No. 165, Preacher has filed a Motion for Leave to file a response in opposition to Defendants' Reply Briefs. Sur-reply Briefs are discouraged by this Court. *See, e.g., See, e.g., Peppler v. Kindred Hospital Pittsburgh-North Shore LLC*, Civil Action No. 14-273 (W.D. Pa. June 19, 2014). Because the briefing on the pending motions to dismiss is sufficient to aid the Court in its analysis, Preacher's motion is **DENIED**.

6. Finally, at the status conference, Preacher indicated that he had not received a copy of this Court's protective order, which was issued on June 3, 2020 (ECF No, 117). The Court will mail another copy of that Order to Preacher along with this Order.

So ordered this 28<sup>th</sup> day of September, 2020.



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RICHARD A. LANZILLO  
United States Magistrate Judge